

REMARKS

Claims 1-23 remain in this application. All claims remain the same.

Claims 21-23 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter for failure to recite computer-readable medium. Insofar as it may apply to the present claims, this rejection is traversed.

The preamble of originally filed claims 21-23 specify the client logic engine is “residing on a node within a wide area network”. Claims 21-23 have now been amended to include that limitation within the body of the claim. Applicants note that a node of a wide area network inherently includes computer-readable medium needed to realize the functionality of the client logic engine.

Accordingly, Applicants submit that this rejection has been overcome and request that it be withdrawn.

Claims 1-16 and 18-23 stand rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan et al. (U.S. Publication No. 2003/0093320). Insofar as it may apply to the present claims, this rejection is traversed.

Applicants acknowledge that authorization and capture engines are known in the industry as are tax calculation engines. However, while these elements were known, it was not clear how or if all of the elements of tax compliance, together with financial transaction functionality, could be combined and integrated under one system.

Sullivan discloses a system that operates with a back-room financial system, rather than a fully integrated system, that covers ALL elements of compliance, including that of the remittance function itself. Sullivan's invention is for a system / program that: (i) calculates / determines taxes; and (ii) reports tax liability. Nowhere in this definition is there a discussion about the element of (iii) payment. By way of background – the payment system is a different system than the accounting system. They are connected, because data is transferred from one to the other, but they are distinct. Examiner refers to only one element of the instant independent claims, that of the calc node, but the instant claims require three different nodes: (i) logic engine; (ii) calc engine; and (iii) the fulfillment engine, which evaluates the actual flow of funds, and determines payments owing. This third node is not disclosed or discussed in Sullivan, or elsewhere.

The operation of a sales tax comprehensive engine in conjunction with the financial transaction (the credit-card authorization engine) is a completely different system. First of all, as

disclosed in the instant invention, the entire tax compliance is performed in one system or node of a wide area network. The cohesiveness of the system is what allows it to work in harmony with the merchant's financial transaction engine, providing front-end calculation fully integrated into the transaction authorization process, as well as the ability to pull tax funds and remit them on behalf of the merchant. The ability to perform all of these functions under one system was not known to an ordinary person skilled in the art back in 2001.

The instant invention specifically discloses a system that not only calculates taxes/amounts owing and returns the amount owing into the financial transaction engine, but ALSO a node that determines from within the flow of funds taxes that are owing, and if yes - automatically deducts from that flow the taxes owing so that amounts received in the merchant account are net of taxes, which are automatically remitted to the taxing agency. This is just one exemplary embodiment of the system operating in a taxing environment. In fact, the instant system can be used in any environment where some kind of payment is owing to a third party as part of a transaction between parties "A" and "B" (including commissions on stock and option purchases in the financial markets; telecommunication taxes on mobile phones, etc). Sullivan does not touch upon the actual flow of funds but rather focuses upon flow of data only.

Sullivan discloses determination of taxes and reporting of tax liability, but his entire disclosure focuses on how his system does it in the context of the Purchasing System. The only place in the entire disclosure where he talks about payment is in para 0007, where he says that the tax compliance system is linked to the banking system.

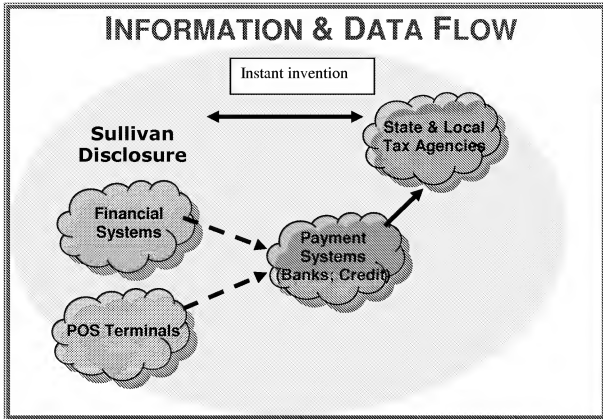
[0007] The transaction tax compliance system may be linked to the banking network as well as to a computer systems used by tax authorities. This linkage would allow for the calculation, collection, recording, reporting, and remitting of a transaction tax liability through the transaction tax compliance system. Such a configuration would allow tax authorities to provide and monitor the transaction tax information applied by sellers and purchasers to an extent not possible today.

[0067] The transaction tax compliance system may be used with many types of selling/purchasing systems, including, but not limited to cash registers, computer platforms, order/billing systems, hand help computing platforms, and credit card transaction processing devices. In one embodiment of the invention, a credit card system may be associated with the transaction tax compliance system to calculate taxation of petroleum transportation fuels, as well as determine applicable exemptions. The system may function within existing credit card transaction processing environments. The transaction system credit maybe used to purchase fuels at participating merchant locations and may pay for the purchase with the transaction tax credit card. The cost of the

transaction is inclusive of all applicable taxes. The transaction information may be sent through the credit card network to the transaction tax compliance system remote server location. The transaction tax compliance system then determines if the user is exempt from any of the taxes paid at the pump. The transaction tax compliance system may determine the exemptions by determining whether the type of fuel (gas or diesel) is exempt, whether the purchaser is exempt, whether the seller (the oil company) will file for the exemption on behalf of the purchaser, and whether the issuing bank will file for the exemption on behalf of the purchaser. When the purchaser receives the credit statement, the statement may be billed net of the exempt tax. The refund may be recovered by the oil company or the card issuing bank from the applicable tax authority, based on the tax exempt amounts calculated and reported by the transaction tax compliance system. The transaction tax compliance system may store and retain all tax liability data for tax reporting and audit purposes.

The term "link" typically means connecting between two different systems. This link / connection enables the transfer of data back and from the tax compliance system, but it does not bring the tax compliance system under and as an integrated component of the banking system. Also, in this paragraph, Sullivan talks about linkage to the "banking network". That does not mean linking into the payment flow, the transfer of funds. Rather, in the context of the overall disclosure which talks about transferring tax data back and to the merchant purchasing systems and the merchant's accounting systems, it is more reasonable to read "banking network" as the transfer of data from one's bank account about clearance of payments. Similar to how an artisan would download cleared payments from on-line bank account information straight into the financial management software, e.g. QuickBooks. Therefore, the concept of Sullivan is to download cleared payments made to the taxing authorities. This is done for auditing and reconciliation purposes: "Such a configuration would allow tax authorities to provide and monitor the transaction tax information applied by sellers and purchasers." (Sullivan)

Sullivan's purpose, structure and function are different from that of the instant invention, which discloses being part of an integral part of the payment flow system, the system that actually transfers the funds. Hence, the instant invention performs the payment functionality from within the flow of funds. This is a very different system than the accounting system that Sullivan talks about. There is different information that flows in this system, different impacts, and an entirely different mode of operation. The differences can be seen a bit clearer in the following diagram.



In general, the financial systems are effectively controlled by the merchant. The Payment system is controlled by the financial institutions, in other words, while the merchant and the merchant's financial systems (e.g. ERP programs) can access and view data in the Payment system (for example, when online viewing an account balance and transfer funds between accounts), the merchant cannot control the actual flow of funds within the payment system, or make system changes. In the Sullivan system (indicated in the smaller oval above), the merchant can view data in the financial system, but the merchant cannot make changes to the payment systems. The financial and payment systems operate in different universes, using different standards and different protocols. Financial institutions do not allow outside systems to access into their system. However, the instant invention (indicated in the larger oval above) provides an integrated system, whereby the system and method as disclosed by Sullivan is merely one component, one of various other systems included therein. As a result, the instant invention provides an integrated system that can determine, control and change third party payments, interact with the financial system and the payment systems.

Throughout the Sullivan disclosure, the auditing function is clearly followed. Sullivan's system retrieves transaction data from the financial systems / purchasing system, etc, performs the tax determination functionality, and then returns tax data to the financial system / purchasing system. He also discloses taking the transaction and tax data and generating tax returns, printing and mailing them. Nowhere does Sullivan suggest or disclose controlling the flow of funds accordingly or getting the data and performing the functionality from within the system that controls the flow of funds.

The two systems are further compared below:

<i>Sullivan et al.</i>	<i>Instant claimed invention</i>
Discloses handling and calculating 3 rd party payments/ Does not disclose <u>payment</u> of funds owing to 3 rd party.	1. A client logic engine-based system for handling calculation and payment of one or more third party fees due to a third party as part of one or more wide area network transactions between a first party and a second party, wherein the first, second and third parties are users of distinct first, second and third nodes, respectively, of the wide area network, the system comprising:
	a. a wide area network comprising multiple nodes enabling the transfer of transaction data information packets between the first party and the second party; and
i. Does not disclose a logic engine that determines <u>what</u> action is required, <u>if any</u> is required. Sullivan assumes that taxes are owing. This is clearly different than a logic engine that determines what action is required, <u>if</u> any. For example, the Exactor logic engine of the instant invention could be used to determine, on any given transaction, whether: (i) commissions are owing to a 3 rd party; (ii) taxes owing to a 4 th party; (iii) telecom fees are owing to a 5 th party telecom company; (iv) another type of payment to a 6 th party and/or so forth.	b. at least one logic engine residing on a node of the wide area network, the logic engine selected from the group consisting of: i. a transaction client logic engine, residing on a node within the wide area network, that: includes rules of logic for the determination of what action is required on transaction data information packets; receives one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; determines what action is required on received transaction data information packets; and based upon said determination, transmits the information packets between a third party fee calculation client agent, if present, and itself, between a third party fee fulfillment

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan. Examiner argues Sullivan discloses an authorization and capture client agent. Insofar as it may apply to the instant claims, this rejection is traversed.

Applicants' comments above regarding the disclosure of Sullivan are equally applicable here as well. Applicants note that Sullivan fails to disclose an integrated system having the three different types of client logic engines of the instant claims, wherein the system determines whether or not third party amounts are owed and also affects payment of such amounts.

Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

In view of all the foregoing, Applicants respectfully submit that they have made a diligent effort to place the application in form for allowance. An early notice thereof is respectfully requested.

Respectfully submitted,

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